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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DARRELL SCOTT ANDERSON
46865 Skyline Ridge Road
Coarsegold, CA 93614

Respiratory Care Practitioner License No. 15691

Respondent.

Case No.R-2009

**DEFAULT DECISION
AND ORDER**

[Gov. Code §11520]

JURISDICTION

1. On or about March 10, 2006, Complainant Stephanie Nunez, in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs, filed Accusation No. R-2009 against Darrell Scott Anderson (Respondent) before the Respiratory Care Board.

2. On or about September 22, 1992, the Respiratory Care Board (Board) issued Respiratory Care Practitioner License No. 15691 to Respondent. The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2006, unless renewed.

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DISCIPLINARY HISTORY

3. On or about February 21, 2002, the Board filed Accusation R-1653, based on respondent's guilty plea to a misdemeanor violation of Health & Safety Code section 11357(c), possession of more than one ounce of marijuana. Respondent's license was placed on probation for three years effective August 1, 2002. He completed probation on August 1, 2005. A true and correct copy of the Decision in R-1653 is attached as **Exhibit A**.

4. On or about February 27, 2006, Administrative Law Judge Jaime Roman granted the Board's petition for an Interim Suspension Order in case no. R-2009, which was served on respondent on February 28, 2006. A true and correct copy of the Order is attached as **Exhibit B**.

5. On or about March 10, 2006, Jennifer Porcalla, an employee of the Complainant Agency, served by Certified and First Class Mail a copy of the Accusation No. R-2009, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 46865 Skyline Ridge Road, Coarsegold, CA 93614. A copy of the Accusation, the related documents, and Declaration of Service are attached as **Exhibit C**, and are incorporated herein by reference.

6. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

7. On or about March 10, 2006, the aforementioned documents served by certified mail were delivered to respondent's address of record. A copy of the United States Postal Service Track & Confirm page is attached as **Exhibit D**, and incorporated herein by reference.

8. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

9. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. R-2009.

10. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

11. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A through J finds that the allegations in Accusation No. R-2009 are true.

12. The Respiratory Care Board further finds that pursuant to Business and Professions Code section 3753.5, the costs of investigation and enforcement of the case prayed for in the Accusation total \$4,514.00, based on the Certification of Costs contained in **Exhibit E**.

FINDINGS OF FACT

I

Stephanie Nunez is the Executive Officer of the Respiratory Care Board and made the charges and allegations contained in the Petition to Revoke Probation solely in her official capacity.

II

The Board issued respiratory care practitioner license number 15691 to respondent DARRELL SCOTT ANDERSON on September 22, 1992. The license was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2006 unless renewed.

III

On or about January 6, 2006, Mike Prado, Special Agent for the U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, initiated a federal child

1 pornography investigation of respondent, who was suspected to be the recipient of child
2 pornography via electronic correspondence.

3 IV

4 Agent Prado was provided with information that a subject in Riverside, California
5 was suspected of receiving and distributing, via email, images of child pornography. A forensic
6 computer examination of the Riverside suspect's computer led Agent Prado to an individual using
7 a Yahoo! E-mail address to trade images of child pornography. Further investigation revealed
8 that respondent was the individual using the Yahoo! E-mail address. Agent Prado determined
9 that respondent was employed as a respiratory therapist at Valley Children's Hospital in Madera,
10 California, and had access to children as part of his professional duties. Given respondent's
11 access to children through his job, Agent Prado obtained a search warrant at the earliest possible
12 date. The Board has reviewed and considered the Affidavit of Mike Prado attached to the
13 certified copy of the criminal complaint (**Exhibit F**)

14 V

15 On January 12, 2006, federal agents along with the Fresno County and Madera
16 County Sheriff's Department, conducted a search of respondent's residence, pursuant to a federal
17 search warrant. Respondent arrived soon after the law enforcement officials arrived at his
18 residence. Respondent was given his Miranda rights, and waived them verbally and in writing in
19 Agent Prado's presence (**Exhibit F**, Affidavit of Mike Prado, page 5.) Respondent made many
20 incriminating statements, and admitted that he had communicated via the internet to obtain images
21 of child pornography. He admitted that he had a collection of child pornography which he had
22 accumulated over a period of several years, and he directed the officers to the locations in his
23 house and computer where it was stored. The law enforcement agents seized computer hard
24 drives and computer storage media containing child pornography images (**Exhibit F**, Affidavit of
25 Mike Prado, pages 5 -10).

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1 VI

2 Based on the interview of respondent and the materials seized in his residence,
3 respondent was placed under arrest for violations of 18 U.S.C. Section 2252(a)(2), receiving
4 and/or distributing material involving sexual exploitation of minors and 18 U.S.C. Section
5 2252(a)(4), possession of books, periodicals, films, videotapes, or other matter which contains
6 any visual depiction involving the use of a minor engaging in sexually explicit conduct that has
7 been mailed, shipped or transported by any means including computer.

8 VII

9 On or about January 12, 2006, a criminal complaint titled *United States of*
10 *America vs. Darrell Scott Anderson*, case no.1:06MJ00009 was filed in the United States District
11 Court, Eastern District of California. The Affidavit of Special Agent Mike Prado is attached to
12 the Complaint **(Exhibit F)**.

13 VIII

14 On January 19, 2006, a criminal indictment case no. 1:06CR00017 was filed by a
15 Grand Jury. Count One charged respondent with a violation of 18 U.S.C. section 2252(a)(2),
16 receipt or distribution of material involving sexual exploitation of minors. Count Two charged
17 respondent with a violation of 18 U.S.C. Section 2252(a)(4), possession of material involving the
18 sexual exploitation of minors through the use of interstate commerce **(Exhibit G)**.

19 IX

20 On January 20, 2006, an Order Setting Conditions of Release was filed.
21 Respondent entered a plea of not guilty. He posted a \$10,000 cash bond, was released on his
22 own recognizance, and ordered to appear at U.S. District Court in Fresno on February 6, 2006.
23 It was further ordered that respondent was placed in the custody of Lynnette Anderson and
24 placed under home incarceration with terms and conditions including an order to stay away from
25 any person under the age of 18, not to use or possess a computer, not view or possess child
26 pornography, not access the internet, and surrender his passport **(Exhibit H)**.

27 On March 3, 2006, an Amended Order Setting Conditions of Release was filed.
28 Respondent was released on his own recognizance and ordered to participate in a home

1 confinement program. He was placed in home detention and restricted to his residence at all
2 times except for employment; education; religious services; or mental health treatment; attorney
3 visits; court appearances; court-ordered obligations; or other activities as pre-approved by the
4 Pretrial Services office or supervising officer (**Exhibit I**).

5 DETERMINATION OF ISSUES

6 1. Based on the foregoing findings of fact, the Board makes the following
7 determination of issues:

8 I

9 Findings of Fact III through IX establishes that respondent's conduct constitutes a
10 violation of Business and Professions code sections 3750(j) [corrupt act] and 3755
11 [unprofessional conduct].

12 II

13 Complainant has incurred \$4,514.00 in costs of investigation and enforcement of
14 this action pursuant to complainant's cost declaration, **Exhibit E**. Complainant is entitled to
15 recover costs pursuant to code sections 3753.5 and 3753.7.

16 ORDER

17 IT IS THEREFORE ORDERED that Respiratory Care Practitioner License No.
18 15691, heretofore issued to Respondent Darrell Scott Anderson, is revoked.

19 Respondent is ordered to reimburse the Respiratory Care Board the amount of
20 \$4,514.00 for its investigative and enforcement costs. The filing of bankruptcy by Respondent
21 shall not relieve Respondent of his responsibility to reimburse the Board for its costs.
22 Respondent's Respiratory Care Practitioner License may not be renewed or reinstated unless all
23 costs ordered under Business and Professions Code section 3753.5 and 3753.7 have been paid.

24 Pursuant to Government Code section 11520, subdivision (c), Respondent may
25 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
26 within seven (7) days after service of the Decision on Respondent. The agency in its discretion

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may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 8, 2006.

It is so ORDERED April 6, 2006.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT,
RCB PRESIDENT
FOR THE RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Decision and Order in R-1653
Exhibit B: ISO Order in R-2009
Exhibit C: Accusation R-2009, Related Documents, and Declaration of Service
Exhibit D: United States Postal Service Track & Confirm
Exhibit E: Certificate of Costs of Deputy Attorney General Lawrence Mercer and Senior Legal Analyst Catherine Santillan
Exhibit F: Certified copy of Criminal complaint titled *United States of America vs. Darrell Scott Anderson*, case no.1:06MJ00009 and Affidavit of Mike Prado
Exhibit G: Certified copy of Criminal Indictment case no. 1:06CR00017
Exhibit H: Certified copy of Order Setting Conditions of Release
Exhibit I: Amended Order Setting Conditions of Release